

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
JULY 11, 2007**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Randy Toavs, Gene Dziza, Kathy Robertson, Kim Fleming, Barry Conger, Mike Mower, Gordon Cross and Frank Dekort. Don Hines had excused absence. Annie Thompson, Andrew Hagemeyer, BJ Grieve and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 35 people in the audience.

PUBLIC REVIEW

Gene Dziza reviewed the public hearing process.

**APPROVAL OF
MINUTES**

There were no minutes approved at this meeting.

**PUBLIC
COMMENT
(not related to
agenda items)**

Charles Lapp, 3230 Columbia Falls Stage, asked the Board to consider holding the subdivision regulation workshops as open workshops with the public. He requested there be "give and take" with the public instead of just having a comment period. He wanted the public to be able to ask questions.

**CREATION OF
THE
TALLY/BISSELL
ZONING
DISTRICT
FZD-07-02**

A Zoning request to establish the Tally/Bissell Zoning District, by Narda Wilson on behalf of residents of the area. The area is currently unzoned and the proposal would establish SAG-10, (Suburban Agricultural) zoning east of Farm to Market Road, west of Lodgepole Road and south of Twin Bridges Road in the northwest Whitefish area.

STAFF REPORT

Annie Thompson reviewed Staff Report FZD-07-02 for the Board.

**BOARD
QUESTIONS**

Conger asked if the Scenic Corridor requirements would go away if the zoning was adopted.

Thompson said it would overlay the zoning.

APPLICANT

Narda Wilson, representing the Tally Bissell Neighborhood, has a friend who lives in the area and was told about the rumor of starting a skeet range. He asked Wilson what they could do and found out the area is unzoned. Since the middle of April, the property owner of a 60-acre piece has been gracious enough to meet with other property owners and have had productive meetings regarding the shooting range. Mr. Haze has looked at

alternate sites and doesn't think the gun club will be an issue anymore. Zoning is something the neighborhood wants so they can move forward in the future knowing they can protect their rural, residential character in the area. They realize the area is a potentially desirable place for development because of Whitefish Lake and Big Mountain. She couldn't get a response from a few property owners and two property owners are in opposition. A couple of people were avid about not being zoned, so the neighborhood tried to leave out the people who didn't want to become zoned. She asked the Board to forward a favorable recommendation to the Commissioners.

Cross asked about the property owner who didn't want to be zoned.

Wilson said the property owner's didn't want the zoning so they left them out. She felt there was enough of a boundary to leave out people who didn't want zoning. There are 980 acres in the zoning district. She showed on the map where the property owner's opposed to the district were located.

AGENCIES

None.

PUBLIC COMMENT

Bob Jones, 5495 Farm-to-Market Road, is opposed to the zoning. He would rather see 20-40 acre zoning instead of 10 acre zoning.

Robert Rice supports the zoning. He thinks it is a good way to keep the rural environment in the area. The valley is getting bigger and bigger and he doesn't want to see development in the area.

Johnny Klassen, 5680 Farm-to-Market Road, has 60 acres and supports the zoning. He has cows, horses, and pastures and would like to keep the area rural. He has someone filming wildlife on his property.

Jim Clark, of Lakeside, said zoning is a proactive move. Zoning helps the community foresee what will happen in the future.

Michelle Larson, 5650 Farm-to-Market Road supports the zoning. She has 16 acres and her acreage backs up to state land. She thinks high density housing would impact the whole valley. She is concerned about hikers, bikers, horseback riders, and wildlife. She is also worried about drainage into Tally Lake.

Steve Smith, 4179 Hwy 93 West, supports zoning because he wants to see the balanced area to be maintained and protected. He is concerned about the school.

Lorri Hustwaite 230 Tally Lake Rd, neighbors and supports the zoning district. She said the roads are narrow. She would like to see the rural feeling maintained.

Tom Tornow, 309 Wisconsin Ave, owns an undeveloped parcel outside of the zoning district but is in favor of the district. Wilson did a good job getting the general consensus of property owners. He said zoning provides predictability.

Don Hanks, 700 Lodgepole, built his home in the area because of the farm environment. He is in favor of zoning to keep the neighborhood quiet.

Bob Brown, 333 Cougar Trail, grew up in the proposed zoning area. He said it is a great place to live and has enjoyed growing up there. His intention is to retire there; he loves the rural nature of area.

Diane Conradi, 341 Central Avenue, reiterated that the proposal meets the criteria of state law and zoning areas. The area is ripe for change and things will happen if zoning isn't approved. The neighbors are before Board to get predictable change. They hired her to make sure they were following the right process, but primarily hired to help relocate the gun club.

**APPLICANT
REBUTTAL**

None.

**STAFF
REBUTTAL**

Thompson asked about the opposition from Jones.

Jones wanted to see the area zoned AG-20 or AG-40.

**MOTION TO
ADOPT F.O.F.**

DeKort made a motion seconded by Robertson to adopt Staff Report FZD 07-02 as findings-of-fact.

**BOARD
DISCUSSION**

Cross asked if there is a rule of thumb about nonconforming lots because of the size of the area.

Thompson said the neighborhood group came up with 10-acre lots.

Harris said there is no rule of thumb, but Staff looked at SAG-10 and thought it made sense for the area.

Cross said 89 houses could be a total in the area with SAG-10 zoning and if someone had a PUD there could be 140 houses. He said the area might be better preserved as AG-20.

**F.O.F. ROLL
CALL**

On a roll call vote the motion passed unanimously

**RECOMMEND
APPROVAL**

DeKort made a motion seconded by Robertson to recommend approval of FZD 07-02 to the County Commissioners.

**BOARD
DISCUSSION**

Fleming said there have been people in the past that have come in asking for zoning 10 acre, but with a PUD it could turn into twice as many houses. She said SAG 20 might be better for the area.

Cross asked if the gun club exists.

Thompson said they are in the process of constructing it now.

Cross asked what would happen if the zoning goes through.

Thompson said it would come down to how much interest Mr. Haze invested into the gun club.

Harris said it would ultimately be decided in the court.

Dziza said he wouldn't support anything bigger than 10 acres. He liked the effort the neighbors made to make everyone aware and involved in the process.

**ROLL CALL
FOR APPROVAL**

On a roll call vote the motion passed unanimously.

**PRELIMINARY
PLAT/
SPRING CREEK
MEADOWS AMD
LOT 4
FPP 07-22**

A request by Kurt and Amy Marsh, for Preliminary Plat approval of the Amended Plat of Lot 4, Spring Creek Meadows, a 2 lot single-family residential subdivision on 2.637 acres. Lots in the subdivision are proposed to have individual water and septic systems. The property is located at 45 Aspen Court, and can legally be described as Lot 4 Spring Creek Meadows, in Section 22, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

STAFF REPORT

Andrew Hagemeyer reviewed staff report FPP-07-22 for the Board.

**BOARD
QUESTIONS**

Cross asked about the existing well.

Hagemeier said the existing well is on lot A.

Cross asked if the applicant would be drilling a well on a lot they don't own.

Robertson asked why one well couldn't service all of the lots.

Kurt Marsh said it would be a common well.

DeKort asked if the CC&R's were current.

Hagemeier said yes.

Cross asked about the school bus stop.

Hagemier said a letter will be sent to the school to decide if a bus stop is needed.

APPLICANT

Bob Erickson, of Jackola Engineering, represented applicant. He asked the superintendent of schools if a bus stop is required and she said no. He asked that condition 14 be changed from, "shall submit", to "if required." He said the well on the lot will be shared.

DeKort asked about a statement in the CC&R's.

Harris said the percentage of people to change CC&R's varies, but it always takes the majority.

Dziza said the applicant is saying there is nothing in the CC&R's that discusses development of land.

**BOARD
QUESTIONS**

None.

AGENCIES

None.

**PUBLIC
COMMENT**

None.

**APPLICANT
REBUTTAL**

None.

**STAFF
REBUTTAL**

None.

**MOTION TO
ADOPT F.O.F.**

Fleming made a motion seconded by Cross to adopt Staff Report FPP 07-22 as findings-of-fact as amended.

**MOTION TO
AMEND F.O.F. 7**

Fleming made a motion seconded by Robertson to add finding of fact 7 to state: *Due to the evidence presented in the "Effects on Local Services" section of this report, the impact of this subdivision on local services is acceptable with the imposition of standard conditions. Aspen lane is in poor condition.*

**BOARD
DISCUSSION**

Cross said he got confused between Aspen Court and Aspen Lane.

Erickson said Aspen Court was created when the subdivision was created.

Kurt Marsh said Aspen Court is private.

**VOTE TO
AMEND F.O.F. 7**

Motion carried by quorum.

**BOARD
DISCUSSION**

Dziza asked if the CC&R's should be discussed in the findings-of-fact.

Harris said Staff does not regulate CC&R's to satisfy conditions after approval.

Dziza asked if the applicant was doing something wrong.

Hagemier said no.

**MOTION TO
ADD F.O.F. 9**

Cross made a motion seconded by Conger to add finding-of-fact 9 to state: *The existing well on lot 4 will be shared by both lots.*

The motion was carried by quorum.

**MOTION TO
ADD F.O.F. 10**

DeKort made a motion seconded by Conger to add finding of fact 10 to state: *Section 3.1 of the CCR's seems to be in conflict with this subdivision.*

**ROLL CALL TO
ADD F.O.F. 10**

On a roll call vote the motion passed 5-3 with Dziza, Toavs and Mower dissenting.

**MOTION TO
APPROVE**

Cross made a motion seconded by Robertson to recommend approval of FPP 07-22 to the County Commissioners.

**MOTION TO
AMEND
CONDITION 10**

Cross made a motion seconded by DeKort to amend condition 10 to state: *A school bus stop will be established and constructed in a location approved by the Superintendent of Schools and the Child Transportation Committee if required. This location will be indicated on the face of the final plat [Agency Referral, Superintendent of Schools].*

The motion was carried by quorum.

**MOTION TO
AMEND
CONDITION 14**

Cross made a motion seconded by DeKort to amend condition 14 to state: *The applicant shall submit to the Flathead County Planning and Zoning Office an approved Storm Water Pollution Protection Plan from the MT DEQ – Water Protection Bureau if required prior to any construction activity [3.12, 3.13 FCSR; 75-5-101, MCA].*

The motion was carried by quorum.

**ROLL CALL TO
APPROVE**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Fleming said she didn't know Glacier Valley was going before the Board tonight because of some confusion with the agenda and website. She asked to be recused.

**PRELIMINARY
PLAT/GLACIER
VALLEY
FPP-07-21**

A request by Fred Newton, for Preliminary Plat approval of Glacier Valley Subdivision, an 11-lot, (10 single-family and 1 apartment) subdivision on 16.4 acres. Lots in the subdivision are proposed to have individual water and septic systems. The property is located at off Highway 206, north of Badrock Fire Department, and can legally be described as Tract 8CC in Section 28, Township 30 North, Range 20 West, P.M.M., Flathead County, Montana.

Fleming stepped down for this project.

STAFF REPORT

BJ Grieve reviewed Staff Report FPP-07-21 for the Board.

**BOARD
QUESTIONS**

Cross asked about the failing septic system.

Grieve said it is being replaced.

Toavs asked if the building on the site meets code regulations for residents.

Grieve said there are no codes unless they come from the state; the Board could condition the proof of compliance with codes.

APPLICANT

Fred Newton, applicant, proposed to clean up the area. There is junk on the property and it needs cleaned up. He said the building onsite is in compliance with codes and he has permits. There is a low spot on the edge of the right-of-way to the North end of the building. The only problem could be if the snow removal plows push snow the wrong way. He plans on putting in a full turnaround for the post office. He showed, on the map, where the trees and buffer would be. He is trying to do a nice, clean subdivision.

Cross asked if there was any suggestion of creating an easement to other parcels.

Newton said he is not allowing any easements into other properties and doesn't think there is enough room for one.

Mower asked why they weren't proposing a community well.

Newton said one of the properties has its own well. The problem is, they don't know if they can get water rights on a public system but they can get water rights for shared wells.

Dziza asked if the lot owners pay for the development of the wells.

Turner said he would put in all the wells for final plat.

Robertson asked about a shared septic system.

Turner said Glen Gray didn't see a problem with individual septic systems.

Tom Abel, Abel Engineering, said there is a requirement that if one well goes down they have to have a back up well and three wells are required to do that.

AGENCIES

None.

**PUBLIC
COMMENT**

Shawn Cowen, 3949 Middle Road, said the development is West of his property. He doesn't want to stop people from developing land, but all the other housing developments have been large tracts of land to fit in with the area. He doesn't think the acreage and density come close to being in compliance with the

neighborhood. He said the property to the north of him couldn't be built on because of the low water.

**APPLICANT
REBUTTAL**

Turner said 1 ½ years ago he had to purchase an adjoining land owners notification list from GIS. He tried to get an easement off of Lynnwood Drive.

**STAFF
REBUTTAL**

Grieve said Mr. Cowen was notified by certified mail on June 12th of this year.

**MOTION TO
ADOPT F.O.F.**

Cross made a motion seconded by Conger to adopt Staff Report FPP-07-21 as findings-of-fact.

**MOTION TO
AMEND F.O.F. 7**

Conger made a motion seconded by Robertson to amend finding of fact 7 to state: *The effects on local services are acceptable with the imposition of conditions because existing roads are capable of accommodating increased traffic, internal roads and existing access points will be permitted and separated. However, Highway 206 between Bad Rock and Kelly Road is heavily traveled and has no shoulders and deep drainage ditches on either side. It is assumed that the schools can accommodate new students. Cash in lieu of parkland will be provided, police have been notified and solid waste disposal meets established regulatory criteria.*

ROLL CALL

On a roll call vote the motion passed 7-1 with Dziza dissenting.

**BOARD
DISCUSSION**

Cross said the Board is being put in a bad position because of the issues with water rights. Putting a condition in for a community water system would cause problems for the applicant.

Conger asked if the Board could require community systems.

Grieve said DEQ is still processing applications for community systems and it just takes longer.

Dziza said Kurt Hafferman told the Board it would add a couple of years to require a community system.

**MOTION TO
ADD F.O.F. 9**

Toavs made a motion seconded by Conger to add finding-of-fact 9 to state: *All existing structures with the exception of the 7-unit structure will be removed.*

**ROLL CALL TO
ADD F.O.F. 9**

On a roll call vote the motion passed unanimously.

**MOTION TO
ADD F.O.F. 10**

Cross made a motion seconded by Robertson to add finding-of-fact 10 to state: *The current legal environment surrounding community water systems has led the applicant to propose a system of shared wells. It appears that this will become more prevalent until the situation is resolved.*

The motion was carried by quorum.

**MOTION TO
ADD F.O.F. 11**

Conger made a motion seconded by Robertson to add finding-of-fact 11 to state: *The majority of adjacent land uses and lots are low density, agricultural character lots.*

**ROLL CALL TO
ADD F.O.F. 11**

On a roll call vote the motion passed 4-3 with Mower, Toavs, and Dziza dissenting.

**RECOMMEND
DENIAL**

Conger made a motion seconded by Robertson to recommend denial of FPP 07-21 to County Commissioners.

**BOARD
DISCUSSION**

Conger was concerned about density and water.

Robertson was concerned about density, but mainly wanted to open the Board up for discussion.

Mower doesn't know why the Board would recommend denial.

Cross said density can't be mitigated and density alone is justifiable for denial.

Dziza doesn't see a big threat for the traffic onto the highway.

Robertson said landscaping around the post office area is important and leaves her with the idea he is going to do well for the subdivision.

Conger said precedent is what the whole things comes down to. He said 10 more cars aren't that big of a deal right now, but in the future it might be. He is worried about setting precedent.

**ROLL CALL TO
DENY**

On a roll call vote the motion failed 2-5 with Dziza, Cross, Robertson, Toavs, and Mower dissenting.

**MOTION TO
RECOMMEND
APPROVAL**

Dziza made a motion seconded by Cross to recommend approval of FPP 07-21 to the County Commissioners.

**BOARD
DISCUSSION**

Cross asked about the egress and ingress conditions.

Grieve wanted to have one egress/ingress access for the whole area.

The Board discussed easements and ingress/egress.

**MOTION TO
ADD
CONDITION 20**

DeKort made a motion seconded by Cross to add condition 20 to state: *An area approved by the Flathead County Superintendent of Schools and compliant with their safety guidelines shall be reserved as a bus stop to serve the subdivision.*

The motion was carried by quorum.

**MOTION TO
ADD
CONDITION 15g**

Cross made a motion seconded by DeKort to add condition 15g to state: *Further subdivision of lots is prohibited.*

The motion was carried by quorum.

**MOTION TO
AMEND
CONDITION 3**

Toavs made a motion seconded by Robertson to modify condition 3 to state: *The entire development, including the 7-unit structure, shall be accessed via one clearly defined ingress/egress point not to exceed 40 feet in width. The remaining Highway 206 frontage shall be substantially landscaped to prevent access, but may allow visibility of existing 7-unit structure.*

The motion was carried by quorum.

**MOTION TO
ADD
CONDITION 21**

Toavs made a motion seconded by Robertson to add condition 21 to state: *The applicant must show proof of compliance with state building codes for multi-family structures of 7 or more residences or apartment complexes.*

The motion was carried by quorum.

**MOTION TO
ADD
CONDITION 22**

DeKort made a motion seconded by Robertson to add condition 22 to state: *An easement, as determined by the Montana Department of Transportation, shall be dedicated to the state to allow for future expansion of Highway 206.*

The motion was carried by quorum.

**ROLL CALL TO
APPROVE**

On a roll call vote the motion passed 5-2 with Conger and DeKort dissenting.

- OLD BUSINESS** The Board discussed replacing Hines for the Long Range Planning Task Force; Cross volunteered.
- MOTION** DeKort made a motion seconded by Robertson to elect Cross to the Long Range Planning Task Force.
- OLD BUSINESS CONTINUED** The Board discussed the subdivision regulation workshops.
The Board discussed the retreat for July 31st.
- NEW BUSINESS** Harris handed out a spreadsheet regarding the Commissioners voting versus the Planning Board's voting.
Harris handed out a transportation study report.
Grieve said within the next three months, there needs to be an implementation plan with the Commissioners regarding the Growth Policy. He asked the Board if they wanted him to come up with a list or if the Board wanted to come up with a list themselves.
Cross suggested to keep in mind what the provisions are for and to keep the scope of it down to what the Growth Policy says.
The Board discussed how they wanted to implement the Growth Policy.
Harris handed out CD's of the transportation study. He then discussed the Riverdale Plan with the Board.
Cross discussed sending a letter to the Commissioners expressing the concern of eliminating a position in the Planning Office.
- ADJOURNMENT** The meeting was adjourned at approximately 9:40 pm on a motion by Robertson seconded by Conger. The next meeting will be held at 6:00 p.m. on July 18, 2007.

Gene Dziza, President

Kayla Kile, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 8/8/07